

Chapter 3

Subdivision Review Requirements and Procedures

CHAPTER 3. SUBDIVISION REVIEW REQUIREMENTS AND PROCEDURES

3-1. ALL SUBDIVISIONS -- PRELIMINARY SUBMITTAL AND REVIEW PROCEDURES

3-1-1. Construction Timing

Alterations required as subdivision improvements, such as grading, road building, installation of wastewater treatment systems, alteration of irrigation facilities, vegetation removal, construction of homes, etc. shall not occur on land proposed for subdivision until the BCC has given approval or conditional approval of the preliminary plat or plan. Alterations not required for the subdivision, such as construction of one residence on a vacant property, and any alterations required for gathering data for a subdivision application, such as test wells, groundwater monitoring holes, and soils test pits shall be permitted. A subdivision shall be considered to be "proposed" if there has been a subdivision application submitted.

3-1-2. Transfers of Title

Except as noted below, a final subdivision plat must be filed for record with the County Clerk and Recorder before title to the subdivided land can be sold or transferred in any manner. After the preliminary plat of a subdivision has been approved or conditionally approved, the subdivider may enter into contracts to sell lots in the proposed subdivision if all of the following conditions are met (76-3-303, MCA):

- a. That under the terms of the contracts the purchasers of lots in the proposed subdivision make any payments to an escrow agent, which must be a bank or savings and loan association chartered to do business in the State of Montana;
- b. That under the terms of the contracts and the escrow agreement the payments made by purchasers of lots in the proposed subdivision may not be distributed by the escrow agent to the subdivider until the final plat of the subdivision is filed with the County Clerk and Recorder;
- c. That the contracts and the escrow agreement provide that if the final plat of the proposed subdivision is not filed with the County Clerk and Recorder within two years of the preliminary plat approval, the escrow agent shall immediately refund to each purchaser any payments made under the contract;
- d. That the contracts contain the following language conspicuously set out therein: "The real property which is the subject hereof has not been finally platted, and until a final plat identifying the property has been filed with the County Clerk and Recorder, title to the property cannot be transferred in any manner;" and
- e. That the County Treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be divided have been paid.

3-1-3. Permission to Enter

The BCC, its designated agent(s), or affected agencies identified during the pre-application meeting may investigate, examine, and evaluate the site of the proposed subdivision to verify information provided by

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the subdivider and to subsequently monitor compliance with any conditions if the preliminary plat is conditionally approved up to final plat approval, the close of a subdivision improvements agreement or as may be specifically provided for in a preliminary plat decision and noted in the required covenants and/or notifications document filed with the final plat. (Refer to Chapter 2 for the definition of "affected agency".) The submission of a subdivision application constitutes a grant of permission by the subdivider for the BCC, its agents, and affected agencies to enter the subject property. This consent applies to members of the public attending a noticed public meeting for a site visit, and at no other time.

3-1-4. Pre-application Process

- a. Prior to submittal of a subdivision application, the subdivider shall request a pre-application meeting with the Planning Department. The meeting shall occur within thirty (30) calendar days after the subdivider submits a written request for the meeting to the Planning Department that include the items listed in subsection (b).
- b. The written request for a pre-application meeting must include the following items:
 - i. A subdivision pre-application conference form and attachments (a copy is available with the Administrative Materials from the Planning Department) that includes the following information:
 - a. Property owner, subdivider and subdivider's representative contact information
 - b. Property information such as legal description, tax identification number, address, area of property, current uses, irrigation water rights, and within which school, fire, irrigation, and sewer districts the property is located.
 - c. An overview of the proposal, such as number of lots/units, type of subdivision, and proposed uses
 - ii. The pre-application conference fee;
 - iii. A concept plat/plan of the proposed subdivision showing the layout of the proposed features in relation to existing site conditions and supplemental information (a list of features to be shown is included on the subdivision pre-application conference form in the Administrative Materials available at the Planning Department); and
 - iv. Other supplemental maps and information, including:
 - a. Vicinity map (minimum 8½" x 11")
 - b. Copies of any existing covenants, zoning, deed restrictions, existing easements and rights-of-way, and/or conservation easements
 - c. List of potential variances that may be needed
- c. At the pre-application meeting:
 - i. The Planning Department shall identify, for informational purposes, the State laws, local regulations and Growth Policy provisions that may apply to the subdivision review process including, but not limited to, zoning regulations, environmental health regulations and floodplain regulations;

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- ii. The Planning Department shall provide the subdivider with a list of public utilities; local, state and federal agencies; and any other entities that have an interest in the proposed subdivision and that may be contacted for comment by the Planning Department about the subdivision application. The Planning Department shall also identify the timeframes that the public utilities, agencies, and other entities are given to respond (see Sections 3-2-3(b) and 3-3-3(b) regarding notification requirements); and
- iii. The Planning Department may identify additional information the Planning Department anticipates will be required for review of the subdivision application. This does not limit the ability of the Planning Department to request additional information related to one or more of the required elements at a later time.
- d. Unless the subdivider submits a subdivision application within six (6) months of this pre-application meeting, the subdivider must request a new pre-application meeting prior to submitting the subdivision application.

3-1-5. Subdivision Application and Preliminary Plat Submittal

- a. The subdivider shall submit to the Planning Department a subdivision application including the elements listed below, some of which are described in more detail in subsections that follow the element listing. If a listed item is believed by the subdivider not to be applicable, the subdivider shall provide an explanation in lieu of the listed item, subject to review per Section 3-1-6.
 - i. Completed and signed Subdivision Application Form;
 - ii. Required review fee;
 - iii. Preliminary plat (See Section 3-1-5(b));
 - iv. Reduced copy (8½" x 11", 8½" x 14", or 11" x 17") of preliminary plat;
 - v. Soils map and related information regarding soil types on the property, suitability of those soil types for development or agriculture and source information, based on the most recent soils survey or onsite investigations;
 - vi. Variance approvals;
 - vii. Proposed covenants;
 - viii. Proposed easements;
 - ix. List of names and addresses of each property owner of record and each purchaser under contract for deed for land adjoining the subject property, as filed with the Ravalli County Clerk and Recorder's Office;
 - x. Wildland fire hazard determination and evidence the proposal meets the relevant standards, refer to Chapter 5, Article 5;
 - xi. Phasing plan and schedule;
 - xii. Evidence of submittal to RCEH for water and sanitation information required per MCA 76-3-622.
 - A. Submittal of the checklist (which shall be limited to information required by MCA 76-3-622) from RCEH stating the information is complete;
 - xiii. Preliminary engineering plans for any public or private sewer or water system;
 - xiv. Plan for parkland dedication/donation;
 - xv. Plans for addressing additional provisions for Mobile Home Parks in Chapter 5;
 - xvi. Plans for addressing additional provisions for Recreational Vehicle Parks in Chapter 5;

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- xvii. Preliminary approach and encroachment permits from MDT and the County, or evidence of approvable approaches;
- xviii. Preliminary road name approval from the Ravalli County GIS Department;
- xix. Estimated pro rata share, based on the preliminary plat application -which shall be utilized to determine the amount due at final plat application in accordance with the preliminary plat decision. (See definition of Pro-Rata Share)
- xx. Documentation showing that the subdivider has applied for necessary permits where applicable, such as those from Bitterroot Conservation District, US Army Corps of Engineers, and/or Ravalli County Floodplain Program;
- xxi. Documentation of legal and physical access;
- xxii. Documentation of the history of the tract for any first minor subdivision;
- xxiii. Title Report including such information as:
 - A. Existing covenants, deed restrictions, and other similar recorded restrictions and
 - B. Existing easements;
- xxiv. Other existing covenants, deed restrictions, easements and other recorded restrictions not included in the Title Report;
- xxv. Documentation of existing water rights;
- xxvi. Letter requesting a revocation of agricultural covenant;
- xxvii. Evidence of known locations of any cultural or historic resources;
- xxviii. Evidence that the noxious weed evaluation form was submitted to the Ravalli County Weed District;
- xxix. Site design and building layout plan, if needed per Section 5-2-2(a)(11);
- xxx. Vicinity map – 8 ½" x 11" using latest USGS version at original scale, showing the following as appropriate:
 - A. Boundaries of subject property,
 - B. Location and names of adjacent roads,
 - C. Approximate location of municipal boundaries,
 - D. Rivers, creeks or streams,
 - E. Private or public airport (including landing strips), if the subdivision is located near one, and
 - F. Shooting range, if the subdivision is located near one
- xxxi. Aerial photo (2004 or later) of the property and the general area - 8 ½" x 11" - showing:
 - A. The date of the photo,
 - B. Scale,
 - C. Boundaries of the subject property, and
 - D. Changes that have occurred since the photo was taken;
- xxxii. Variance request(s), including the following information (if this information is provided as part of the subdivision application it does not also need to be submitted with the variance request):
 - A. Accurate identification of Section of the Subdivision Regulations from which the variance is proposed,
 - B. Identification of hardship or practical difficulty,
 - C. Application that addresses the five review criteria,

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- D. Supporting materials, which may include the following:
 - (1) Vicinity Map
 - (2) Aerial Photo
 - (3) Plat (reduced or full-sized), if appropriate
 - (4) Grading and drainage plans, if appropriate
 - (5) Copies of covenants, zoning and/or other land use restrictions, if applicable
 - E. List of adjoining landowners
 - F. Other information relevant to review of the proposal against the variance review criteria in Chapter 7;
- xxxiii. A list of all downstream irrigation users of any irrigation infrastructure proposed to be relocated/altered;
- xxxiv. Traffic impact analysis, is required as follows:
- A. When Required.
 - (1) A traffic impact analysis, as described in this section, shall be prepared and submitted along with the preliminary plat application when the proposed development of six or more lots, as identified in the subdivision plat, has the potential to generate traffic greater than 25% of the current traffic volume on any county-maintained road(s), or changes the functional classification on any road, utilized for access to the subdivision.
 - (2) Trip generation rates for a single-family residence and any other land uses shall be based on the trip generation rates in the manual entitled "Trip Generation" (latest edition) published by the Institute of Transportation Engineers.
 - B. Preparation. The analysis shall be prepared by a professional engineer with expertise in transportation planning.
 - C. Form and Content. The traffic impact analysis shall be in written form along with supporting maps and other information as appropriate. At a minimum, the report shall include the following elements:
 - (1) Existing traffic circulation conditions and patterns,
 - (2) Anticipated traffic circulation conditions and patterns,
 - (3) Effects on the road network,
 - (4) Recommendations/alternatives to alleviate negative effects.
 - (5) Existing Average Daily Traffic
 - (6) Projected Average Daily Traffic
- xxxv. One copy of the master irrigation plan, is required as follows:
- A. When Required. A master irrigation plan, as described in this section, shall be prepared and submitted along with the preliminary plat application if an irrigation water right will be conveyed with one (1) or more of the lots within the subdivision. Note: Water rights are conveyed with land ownership unless specifically severed from the land by deed or other operation of law.

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- B. Preparation. The plan and support documentation shall be prepared by a person with a working knowledge of irrigation water delivery systems.
 - C. Format. The plan shall be prepared according to the following format and it may be included on the preliminary plat:
 - (1) The page size shall be the same size as required for a preliminary plat.
 - (2) Where multiple sheets are used, a cover sheet with index shall be included and each sheet shall show the number of that sheet and the total number of sheets included.
 - (3) The plan shall be legible showing all of the required information.
 - (4) The plan shall be prepared at the same scale as required for a preliminary plat.
 - D. Required Content. The plan shall include, as appropriate, the following elements:
 - (1) The location of all existing and new diversion points, ditches, pipes, pumps, heads, and associated easements.
 - (2) A watering schedule that shows when each of the users can use water from the system.
 - (3) The means to share in the cost of operating and maintaining those elements of the delivery system held in common.
 - (4) The amount of water allocated to each of the lots.
- xxxvi. Preliminary road plans and grading and stormwater drainage plans, or relevant exemption information, as described below, and evidence that the road plans and applicable fees have been submitted to the RCRBD.
- A. General: Construction of and materials for all grading, drainage, and roadways shall conform to the Montana Public Works Standard Specifications, 5th edition (2003 and updates).

Preliminary grading and drainage plans are acceptable at the preliminary plat stage provided they are of sufficient detail and scope, as determined by the Road Supervisor, in consultation with the Ravalli County contracting engineer, to allow sufficient public and governing body review of the proposal and provide sufficient information for the governing body to evaluate impacts that may result from the implementation of those plans.
 - B. Road Plans. Two copies of road plans shall be provided for all roads to be constructed or reconstructed within or outside of the subdivision boundaries. Road plans shall be prepared by a licensed professional engineer and shall include the following elements:
 - (1) For each type of road proposed, typical cross sections for the full easement width;
 - (2) Road grades,
 - (3) Road profiles for all proposed roads which have grades exceeding 7% or cuts and fills exceeding three feet;

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- (4) Type and location of other infrastructure within the road easement, such as sidewalks, walkways and curbs/gutters, if there are any;
 - (5) Other information as appropriate; and,
 - (6) Evidence that the road plans meet the road standards in the Ravalli County Subdivision Regulations.
 - (7) Road counts, dated within one year of application submittal, for any County-maintained road(s) serving the subdivision as part of the primary access route. Only required for major subdivisions.
- C. Grading and Storm Water Drainage Plans. Two copies of Grading and Storm Water Drainage Plans shall be prepared by a licensed professional engineer and provided in accordance with MDEQ Circular 8 as amended, and the Administrative Rules of Montana (ARM) for all subdivisions in which a road is to be constructed or reconstructed, including subdivisions with lots greater than 20 acres in size. In addition to meeting MDEQ Circular 8 requirements, grading and storm water drainage plans shall provide a description and calculations of the proposed storm drainage plan for a ten (10) year frequency one (1) hour storm on-site and calculations and a method to mitigate a 100 year frequency one (1) hour storm. Grading and Storm Water Drainage Plans are not required for subdivisions when an exemption outlined in subsection (D) below applies.
- D. Grading and Storm Water Drainage Plans Exemptions.
 - (1) Exemptions (from using MDEQ Circular 8 as amended, and the Administrative Rules of Montana), when preparing grading and drainage plans shall be granted if the subdivision meets all of the exemption criteria in MDEQ Circular 8, as amended.
 - (2) Grading and Storm Water Drainage Plans for Subdivisions Exempt from Utilizing MDEQ Circular 8. To qualify for the exemption noted above, two copies of the evidence that the subdivision meets the criteria above must be submitted with the storm water drainage plan. Storm water drainage plans that qualify for an exemption from MDEQ Circular 8 shall be prepared by a licensed professional engineer. In addition to providing evidence that the subdivision meets the exemption, the exempted storm water drainage plans shall demonstrate how drainage for any surface run-off affecting the subdivision will be addressed. Two copies of the exempted storm water drainage plans shall be submitted that include the following information:
 - (a) A narrative description of how drainage will be managed;
 - (b) Ground contours at an interval sufficiency to show slope, aspect and drainage features;
 - (c) Grades of existing and proposed streets;
 - (d) Locations and specifications for existing and proposed culverts and bridges;
 - (e) Locations and specifications for any other existing and proposed storm water drainage improvements;

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- (f) Locations of proposed and existing storm water drainage easements; and,
 - (g) Other information as may be requested by staff.
 - E. Approval packet from the Ravalli County Road and Bridge Department that includes the correspondence between the consulting engineer and the subdivider.
- xxxvii. Sensitive species report or waiver request, is required as follows:
- (A) When Required. A sensitive species report, as described in this section, shall be prepared and submitted along with the preliminary plat application when the proposed subdivision is located in a section that contains a species or community of special concern as identified by the Montana Natural Heritage Program, Montana State Library. The Planning Director may waive this requirement when it can be shown by clear evidence that the subject property could not support the identified species or community.
 - (B) Preparation. The report shall be prepared by a qualified biologist or plant ecologist, as appropriate.
 - (C) Form and Content. The report shall be in written form along with supporting maps, drawings, and other information as appropriate. The report shall include, as appropriate, the following elements:
 - (1) The name of the species and/or community that is located in the section of the subdivision;
 - (2) The findings of an on-site investigation to determine whether that species and/or community is in fact found within or within 300-feet of the proposed subdivision;
 - (3) If the species and/or community is found, a map showing its location; and
 - (4) If the species and/or community is found, recommendations for ways to mitigate impacts, if any, caused by the subdivision.
- xxxviii. A preliminary road/common access maintenance agreement, is required as follows:
- (A) When Required. A road/common access maintenance agreement, as described in this section, shall be prepared and submitted along with the preliminary plat application for all private roads, and common accesses, that provide legal access to lots within the subdivision.
 - (B) Required Content. The road/common access maintenance agreement shall, at a minimum, provide the following provisions:
 - (1) Description of the parcels that are subject to the agreement;
 - (2) The section of the road or location of the common access that is subject to the agreement;
 - (3) The agreement is binding on any person having an interest in a parcel that is subject to the agreement;
 - (4) That any person providing public utilities may use the utility easements for such purposes;

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- (5) Decisions to undertake any road maintenance is the responsibility of the landowners and shall be based on a majority vote (over 50%) of the parties to the agreement;
 - (6) Who is eligible to cast a vote (one vote per parcel);
 - (7) How the costs of road/common access maintenance will be assessed (equally or disproportionately) to the parties to the agreement;
 - (8) The amount that will be assessed in the event that a party subdivides a parcel that is subject to the agreement;
 - (9) In the event that an assessment becomes delinquent, the assessment and interest and the cost of collection shall become a continuing lien on the lot;
 - (10) The agreement is perpetual and cannot be rescinded unless the county or state agrees to maintain the roadway described in the agreement;
 - (11) Road/common access maintenance includes dust control, snow removal, maintenance of storm water drainage facilities, ordinary maintenance and reconstruction if necessary. Road maintenance shall also include on-street parking enforcement provisions, in accordance with on-street parking provided for in the road design, because failure to enforce on-street parking may result in the inability of emergency services providers to provide service to lots along this road(s);
 - (12) The agreement may be amended, except that it may not be amended to be less strict or less inclusive; and
 - (13) Notary statement.
- (C) Recordation of Agreement. The road/common access maintenance agreement shall be filed (prior to or concurrent with the filing of the final plat) with the Clerk & Recorder's Office as a single document and shall not include other provisions not related to road maintenance (e.g. land use restrictions, etc.), unless there is a provision in the document stating that the road maintenance agreement section in the covenants cannot be amended to be less strict or less inclusive.

xxxix. Preliminary property owners' association documents, including draft articles of incorporation and bylaws, is required as follows:

- A. When Required. If common property is to be deeded to a property owners' association, the covenants and by-laws that govern the association must, at a minimum, provide for the formation of a property owners' association concurrently with the filing of the final subdivision plat. Articles of Incorporation shall be filed with the Secretary of State's office.
- B. The property owners' association documents shall include the following information which shall be highlighted throughout the documents:
 - (1) Mandatory membership for each property owner. Purchasers of property may also be required to sign a waiver of right to protest the formation of a maintenance district to maintain improvements;
 - (2) A description of the common property (e.g. land and/or facilities) that the property owners will own in common;

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- (3) Perpetual reservation of the common property when required under 76-3-621(6)(a), MCA;
 - (4) Payment of liability insurance premiums, local taxes, and the cost of maintaining recreational or other facilities;
 - (5) Placement of liens on the property of lot owners who are delinquent in the payment of association fees and assessments;
 - (6) Process for adjusting assessments to meet changing needs;
 - (7) Means of enforcing the covenants, and of receiving and processing complaints;
 - (8) Transition of control of the association from the Declarant to the homeowners;
 - (9) Dissolution of the association and modification of the covenants and restrictions after obtaining the governing body's approval of the change; and
 - (10) Regular maintenance of roads, parks, buildings, drainage facilities, and other facilities controlled by the association.
- xl. Floodplain analysis or waiver, is required as follows:
- A. When Required. A floodplain analysis, as described in this section, shall be prepared and submitted along with the preliminary plat application when any portion of the subdivision is within 1,000 horizontal feet of a stream draining an area of 15 square miles or more and no official floodplain designation has been adopted. In consultation with the Floodplain Administrator, the Planning Director may waive the floodplain analysis if it can be clearly demonstrated by a licensed professional engineer or licensed surveyor that a significant topographic feature clearly defines the probable extent of the floodplain.
 - B. Preparation. The floodplain analysis shall be prepared by a licensed professional engineer or licensed surveyor.
 - C. Basis for Analysis. The floodplain analysis shall be based on one of the following methodologies:
 - (1) Output from the computer model entitled HECRAS, or a later version as prepared by the U.S. Corps of Engineers, Hydrologic Engineering Center;
 - (2) A different methodology as approved by the Planning Director and the Floodplain Administrator.
 - D. The analysis shall also be based on cross-sections according to the following minimum requirements:
 - (1) Cross sections shall be placed at representative locations throughout the floodplain reach of the subdivision and located in such a manner as to represent the flow reach between cross sections. Each flow manner shall represent the flow reach between cross sections. Each flow reach shall be as uniform in geometry and roughness as practical.
 - (2) Cross sections are required at locations where changes occur in discharge, channel/floodplain slope, shape, or roughness where levees begin/end; and at control structures such as weirs.

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- (3) At least three (3) cross sections shall be taken and used to describe bridges, culverts, constrictions, or where abrupt channel/floodplain changes occur.
 - (4) One (1) cross section midway between the proposed subdivision boundary lines or at intervals of no more than five hundred (500) feet.
 - (5) Additional cross sections may be required if any development associated with the proposed subdivision creates a backwater situation or a rise in base flood elevations.
- E. Form and Content. Three copies of the floodplain analysis along with a brief description of the project, study objectives and data shall be certified by a licensed professional engineer or a licensed surveyor. The following minimal information shall be submitted with the floodplain analysis:
- (1) Copy of the current FEMA FIRM map, with panel number noted, at the project location showing the location of the surveyed cross sections and the proposed subdivision (if applicable).
 - (2) A vicinity map (the latest version of the appropriate USGS 7.5 minute quadrangle or a similar scale aerial photograph) that clearly shows the following:
 - (a) The location of the subdivision and all of the cross-sections;
 - (b) Section, Township, and Range;
 - (c) The location and elevation of all culverts, bridges, levees, diversion dams, or any other type of hydraulic structure within the reach being analyzed;
 - (d) The location of the benchmark (with the NAVD 1988 datum) that was used in the survey; and
 - (e) The hydrologic drainage area of the stream being analyzed;
 - (3) A written narrative describing the vegetation along the banks and the material composition of the bed and banks, and any hydraulic structures. Color photographs shall be required when proposed hydraulic data is atypical.
 - (4) A written narrative describing all culverts and bridges (size, type, etc.), or any hydraulic structure, within the reach.
 - (5) A discussion of the discharge estimation method along with a detailed description of the methodology, data, and computations so that the analysis may be replicated. This shall include:
 - (a) A discussion of the model choice and methodology (i.e. normal depth, step backwater model type);
 - (b) A summary of available gauge sites if applicable and a discussion of discharge estimations;
 - (c) Copies of model input/output printed and on CD or DVD;
 - (d) A discussion of the model parameters used including Manning's "n" values, starting water surface elevations and flow regimes;
 - (e) A discussion of any special concerns, bridges, levees, hydraulic structures, side channels, or ineffective flow areas that may be applicable to the project; and
 - (f) A discussion of model results, warnings, and assumed critical depths.

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- (6) Drawings of each cross-section that clearly shows the following:
 - (a) Elevation of the ground surface;
 - (b) Elevation of the water surface at the time of the survey;
 - (c) Elevation of the 100-year floodplain; and
 - (d) The apparent high-water mark.
 - (7) A copy of the plat with ground contours (at a sufficient interval to clearly delineate the floodplain boundaries) that clearly shows the following:
 - (a) The location of all cross-sections and elevation reference marks;
 - (b) The water course, property boundaries, proposed lots, building sites, and wastewater treatment systems;
 - (c) The location of all culverts, bridges, or any hydraulic structures;
 - (d) The location of the FEMA-mapped 100-year floodplain, where applicable; and
 - (e) The location of the actual 100-year floodplain boundary based upon the intersection of the 100-year base flood elevation and the natural grade.
 - (8) Additional information may be required if there is potential for adverse effect to adjacent property owners and/or the 100-year base flood elevations are changed.
 - (9) Documentation showing that the subdivider has applied for necessary permits where applicable, such as those from Bitterroot Conservation District, US Army Corps of Engineers, and/or Ravalli County Floodplain Program;
- xli. Environmental Assessment and/or Summary of Probable Impacts (unless excepted per Section 3-2-2(a) or 3-3-2(a)) An Environmental Assessment shall meet the following form and content requirements:
 - A. Form
 - (1) Using available information the subdivider shall provide a response to each question.
 - (2) Each response shall follow the outline and shall be identified with the appropriate section heading, number and letter. If a particular question is not relevant to the proposed subdivision, state the reason it does not apply--a response of "N/A" is not sufficient.
 - (3) For each question identify the source(s) of information and describe all attempts made to secure appropriate information.
 - (4) Onsite inspections may be made regarding any particular question. Deliberate falsification or omission of any part of the questionnaire shall constitute grounds for rejection of the entire subdivision application.
 - B. Content
 - (1) Environmental Information
 - (a) Describe each body or stream of surface water (man-made and natural) (on-site and off-site) that may be affected by or affect the proposed subdivision.

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- (b) Using available information, describe groundwater conditions under the subdivision, including depth to ground water when it is nearest the surface.
- (c)
 - (i) Describe any known hazards affecting the development which could result in property damage or personal injury due to falls, slides or slumps etc. -- soil, rock, mud, snow and seismic activity, etc.
 - (ii) Describe any proposed measures to prevent or reduce the danger of property damage or personal injury from any of these hazards.
- (d)
 - (i) Describe the existing vegetation types (marsh, grassland, forest, agricultural) and efforts to be taken to protect trees and natural vegetation cover (e.g. design and location of lots, roads, and open spaces).
 - (ii) Identify plant communities and plant species that are considered as being of special concern by the Montana Natural Heritage Program.
- (e)
 - (i) Identify all major species of fish and wildlife that use the area.
 - (ii) Identify animal species that are considered as being of special concern by the Montana Natural Heritage Program.
 - (iii) Identify and describe important wildlife areas, such as big game winter range, nesting areas, habitat for rare or endangered species, and wetlands.
 - (iv) Describe any proposed measures to protect wildlife habitat or to minimize degradation (e.g. keeping buildings and roads away sensitive areas, etc.).
- (f)
 - (i) Identify and describe historic, archaeological, or cultural sites (on-site and off-site) that may be affected by the subdivision.
 - (ii) Describe what measures will be taken to protect such sites.
- (2) Local Services Needs
 - (a) Provide a detailed statement documenting the anticipated needs of the subdivision for each of the following:
 - (i) local services, including education and business;
 - (ii) roads and maintenance;
 - (iii) central water facilities;
 - (iv) central sewer facilities;
 - (v) solid waste facilities;
 - (vi) fire protection; and
 - (vii) police protection.

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(b) Complete the following table.

		Distance to each feature by road type (to nearest tenth of a mile).		
	Name & Location	Gravel	Paved	Total
Fire Protection				
Police Protection				
Hospital Facilities				
Ambulance Service				
Elementary School				
Middle School				
High School				
Closest Community				

(3) Probable Impacts

- (a) Provide a summary of the probable impacts of the subdivision as they relate to each of the following criteria (See also Section 3-2-8(b)(v)):
- (i) agriculture, including the agricultural sector, loss of agricultural ground, and surrounding agricultural activities or practices;
 - (ii) agricultural water-user facilities;
 - (iii) local services, including the public road system, police and fire protection, utilities, and public schools;
 - (iv) natural environment, including riparian/wetland areas, soil erosion, vegetation, and air pollution, and noxious weeds;
 - (v) wildlife and wildlife habitat, including fisheries and mammals; and
 - (vi) public health and safety, including police and fire protection, wildland fire hazard, traffic safety, and the presence of other hazards (onsite and offsite) such as high-pressure natural gas lines, airports, railroads, overhead power lines, industrial activities, mining activities, irrigation ditches, and defined dam inundation areas.

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- xlii. A common development plan (CDP) is required as follows:
- (A) When required. A CDP shall be prepared and submitted when two or more landowners agree to undergo concurrent public review for adjoining subdivision proposals.
 - (B) Form and content. A CDP shall consist of the following:
 - (1) The preliminary plat submittal for each subdivision under the CDP shall include a written statement verifying the applicant's participation in the CDP.
 - (2) In addition to the individual subdivision plats, participating applicants shall submit one copy of an overall development plan showing all subdivisions subject to the CDP. The plan shall be the same size as required for a preliminary plat and shall include, at a minimum:
 - (a) Boundaries of subject properties;
 - (b) All proposed lot lines, including common areas;
 - (c) Overall land use summary (number, acreage, and use of lots; acreage of common space);
 - (d) Layout of all proposed roads and accesses, and all existing roads within 300 feet of the subject properties;
 - (e) Notation of any facility or property to be held in common between the respective homeowners' associations;
 - (f) Adjacent property boundaries, current landowners, and existing uses thereon.
 - (C) Special procedures. Subdivisions under a CDP shall be subject to the following provisions:
 - (1) If one subdivision under a CDP receives a determination of sufficiency for public review prior to another, the 60- (or 35-) working day period of the former shall be suspended until the latter is deemed sufficient for public review.
 - (2) When considering the subdivisions for preliminary or final plat approval, the BCC shall issue their decisions on all participating subdivisions at the same public hearing.
 - (3) The total preliminary and final plat review fees for the subdivision proposals under the CDP shall equal the fees for one subdivision containing the total number of lots within the CDP. All other fees must be paid separately.
 - (4) At any time prior to final plat approval, a participating applicant may revoke their inclusion in the CDP by submitting a statement to the

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Planning Department in writing. The Planning Department may consider such revocation as a material modification for any or all of the subdivisions under the original CDP, subject to the provisions of Sections 3-2-9, 3-3-8, or 3-4-1, as appropriate.

- xliii. Statement of proposed mitigation for potential hazards or other adverse impacts as identified in the pre-application meeting and not covered by any of the above required materials (see review criteria in Section 3-2-8(b)(v));
 - xliv. Such additional relevant and reasonable information as was identified by the Planning Department during the pre-application meeting that is pertinent to the required elements of this section or the review criteria in Section 3-2-8; and
 - xliv. Any other documentation needed as evidence that the subdivision meets the design and development standards in Chapter 5.
- b. The preliminary plat/plan shall adhere to the following form and contents requirements:
- i. Format
 - A. Prepared by a land use planner, professional engineer, or a professional land surveyor, unless proposal is for a subdivision for lease or rent (preliminary plan)
 - B. Page size is 24" x 36" or 18" x 24"
 - C. If there are multiple pages, then numbered 1 of __ pages
 - D. Provide one digital (.dxf) copy
 - ii. Content
 - A. Project information, including title block/project name, developer and landowner (if different), preparation date, name of preparer
 - B. Survey Information, including north arrow, graphic scale, legend, legal description of property, exterior property boundaries (bearings, lengths, curve data), and acreage of subject property. (Bearings and curve data not required for preliminary plan for a subdivision for lease or rent)
 - C. Project Development Information, including:
 - (1) Lots and blocks designated by number (dimensions and acreage) (for subdivisions for lease or rent show the existing and proposed home/building sites);
 - (2) Easements/rights of way (location, width, purpose, ownership) - easements may include those for irrigation, utility, road, common driveway, etc.- identify easements/rights of way as existing or proposed;
 - (3) Easements/rights of way (location, width, purpose, ownership) - easements may include those for irrigation, utility, road, common driveway, etc.- identify easements/rights of way as existing or proposed;
 - (4) Dedication for public use (boundaries, area, purpose);
 - (5) No build/alteration zones, identified as existing or proposed;
 - (6) No ingress/egress zones, identified as existing or proposed; and
 - (7) Project phasing, if any.

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D. Setting, including:

- (1) Names of subdivisions/Certificates of Survey adjoining and within 300 feet of subject parcel;
- (2) Property boundaries within 300 feet of subject parcel;
- (3) Names of property owners within 300 feet of subject parcel;
- (4) Adjacent land uses within 300 feet of subject parcel; and
- (5) Municipal boundaries, if applicable.

E. Site Features, including:

- (1) Ground contours (For slopes greater than 8%, provide 2-foot intervals. Varying ground contour intervals that are sufficient to show significant features of the property may be accepted by the Planning Department. In some cases, ground contour intervals may only be required for those areas of a subject property proposed for development when the remaining areas of the property are identified as "no-build/alteration" zones. The USGS topographic map will suffice in place of contours on the preliminary plan for subdivisions for lease or rent to allow for one additional unit.);
- (2) Wetlands;
- (3) Woodlands;
- (4) Wildlife habitat;
- (5) Environmentally sensitive features, which may include areas such as those with 15% or greater slope, natural drainage features, wetlands and riparian areas, etc.;
- (6) Locations of soils rated as severe or very limited for residential building sites or roads and streets;
- (7) Water resources on and within 300 feet of the subject property (creeks, rivers, ponds, etc.);
- (8) Floodplains;
- (9) Irrigation canals, ditches and pipelines within 300 feet including diversion point(s);
- (10) High pressure gas lines within 100 feet;
- (11) Boundary of any dam inundation area (on the plat and location map, as appropriate) if the subdivision is within an inundation area; and
- (12) Sites of historical significance on or near the subdivision (show on plat and location map as appropriate).

F. Existing Buildings and Improvements (for project and within 300 feet), including:

- (1) Utilities (including water, sewer, telephone, power, etc.) Provide information on location, type, size/capacity, buried/overhead, as applicable. For individual wells and septic systems, provide approximate locations within 100 feet of the subject property. Labeled as existing or proposed;
- (2) Roads (names, ownership, etc.);

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- (3) Bridges that provide physical access to the subdivision (either on the plat or location map);
- (4) Driveways and road access onto public and private roads;
- (5) Buildings/structures (footprint, use, etc.); and
- (6) Traffic control signs (type, location).

G. Proposed Improvements and Construction Information, including:

- (1) Storm water/drainage system (location, specifications, etc.);
- (2) Road layout (Road details to be provided in the road plans);
- (3) Proposed irrigation facilities, if applicable;
- (4) Traffic control signs (type, location); and
- (5) Locations of proposed utilities including sewer, water, telephone, power, etc.

3-1-6. Initial Review Procedure

For all subdivisions, the initial review process is as follows:

a. Element Review

Within five (5) working-days of receipt of the subdivision application and fee, the Planning Department shall determine whether the application contains all of the elements required by Section 3-1-5 and shall give written notice to the subdivider of the Planning Department's determination. The element review does not include an evaluation of the sufficiency of the information that may be noted in the subsections following each element.

- i. If the Planning Department determines that elements are missing from the application, the Planning Department shall identify those elements in the notification, and no further action shall be taken on the application by the Planning Department until the required elements have been submitted.
- ii. The subdivider may correct the deficiencies and submit the required elements without fees, within six (6) months of the date of the notification. Failure to correct the deficiencies within six (6) months of the notification shall result in forfeiture of the application fee and shall require a new written pre-application conference request per Section 3-1-4(b) prior to any further consideration of the subdivider's proposal.
- iii. If the subdivider corrects the deficiencies and submits the required elements, the Planning Department shall have five (5) working-days to notify the subdivider whether the application contains all the elements required by Section 3-1-5, as applicable.

b. Sufficiency Review

- i. Within fifteen (15) working-days after the Planning Department notifies the subdivider that the application contains all of the required elements as provided in subsection (a) above, the Planning Department shall determine whether the application and required elements contain detailed, supporting information that is sufficient to allow for the review

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of the proposed subdivision under these regulations and shall give written notification to the subdivider of the Planning Department's determination. Sufficiency review shall include the review of the detailed information listed under the element headings in Section 3-1-5(a) and the preliminary plat requirements listed in Section 3-1-5(b).

- A. If the Planning Department determines that the information in the application is not sufficient to allow for review of the proposed subdivision, the Planning Department shall identify specific required information in the notification and no further action shall be taken on the application by the Planning Department until the material is resubmitted.
 - B. The subdivider may correct the deficiencies and resubmit the application within six (6) months of the date of the notification or forfeit the application fee.
 - C. If the subdivider corrects the deficiencies and resubmits the application in accordance with (i)(B) above, the Planning Department shall have fifteen (15) working-days to notify the subdivider whether the resubmitted application and required elements contain detailed, supporting information that is sufficient to allow for review of the proposed subdivision under these regulations.
- ii. A determination that an application contains sufficient information for review as provided in this subsection (b) does not ensure that the proposed subdivision will be approved or conditionally approved by the BCC and does not limit the ability of the Planning Department and the BCC to request additional information related to one or more of the elements listed in Section 3-1-5 during the review process.
 - iii. A determination of sufficiency by the Planning Department pursuant to this subsection does not limit the RCEH or DEQ from requiring additional water and sanitation information as part of the RCEH or DEQ review of water and sanitation information.
- c. **Applicable Regulations**

Subdivision review and approval, conditional approval, or denial shall be based on those subdivision regulations in effect at the time a subdivision application and preliminary plat is deemed to contain sufficient information for review per Section 3-1-6(b). If subdivision regulations change during the element or sufficiency review, the determination of whether the application contains the required elements and sufficient information, and the subdivision review, shall be based on the new subdivision regulations.

3-2. MAJOR AND SUBSEQUENT MINOR SUBDIVISIONS - REVIEW PROCEDURES

Subdivisions that qualify for major subdivision review are those divisions of land containing six (6) or more lots, or subdivisions of five (5) or fewer lots that do not otherwise qualify for review as first minor subdivisions. See Chapter 2 for definition of subdivision, first minor.

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3-2-1. Subdivision Application and Preliminary Plat Submittal

Following a determination that an application contains sufficient information for review, the subdivider shall submit to the Planning Department the required number of subdivision applications (refer to administrative materials available at the Planning Department), each containing the materials identified in Section 3-1-5 and in the pre-application meeting.

3-2-2. Exceptions

- a. The requirement for preparing an environmental assessment does not apply, pursuant to 76-3-210, MCA, when:
 - i. The proposed subdivision is totally within an area covered by a growth policy adopted pursuant to sections 76-1-601 through 76-1-606, MCA; and
 - ii. The governing body has adopted zoning regulations pursuant to section 76-2-201, MCA; and
 - iii. The governing body has adopted a strategy for development, maintenance, and replacement of public infrastructure pursuant to section 76-1-601(3)(e), MCA.
- b. The Planning Board may waive the requirement for preparing any portion of the environmental assessment when the proposed subdivision is in an area covered by a growth policy adopted pursuant to sections 76-1-601 through 76-1-606, MCA, and the proposed subdivision will be in compliance with the policy; or when the subdivision will contain fewer than ten (10) parcels and less than twenty (20) acres.
 - i. When an exemption from preparing any portion of the environmental assessment is sought, the applicant shall meet with the Planning Board, explain why the exception is appropriate, and if granted the Planning Board shall prepare and certify a written statement of the reasons for granting the exception.
 - ii. A copy of this statement must accompany the subdivision application when it is submitted for review and shall be filed with the final plat.
- c. The parkland dedication requirement does not apply when exempted per the provisions of 76-3-621(3), MCA.

3-2-3. Time Period for Approval, Conditional Approval, or Denial

- a. The sixty (60)-working-day period begins for a subdivision application when the Planning Department notifies the subdivider or the subdivider's agent in writing that the application contains sufficient information to conduct the review. Within sixty (60) working-days, the BCC shall approve, conditionally approve, or deny the proposed subdivision in accordance with Section 3-2-7 of these regulations, unless the subdivider and the Planning Department agree to an extension or suspension of the review period.

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b. Public Agency and Utility Review

Review and comment by public agencies or utilities may not delay the BCC's action on the subdivision application beyond the sixty (60)-working-day review period. If, during the review of the application, the Planning Department or the Planning Board contacts a public utility, agency, or other entity that was not included on the list provided during the pre-application meeting, the Planning Department shall notify the subdivider of the contact and the timeframe for response. Also refer to Sections 3-1-4(c)(ii) and 3-2-4(b)(iv).

3-2-4. Public Hearing – Notification Requirements

a. Hearing

After the subdivision application has been deemed to have all the required elements and to contain sufficient information for review, the BCC shall schedule and hold a public hearing on the subdivision application.

b. Notice

- i. The notice of the time, date and location of the hearing shall be published by the Planning Department in a newspaper of general circulation in the county not less than fifteen (15) calendar-days prior to the date of the hearing.
- ii. Notice of the hearing shall be sent by certified mail to the subdivider, each adjoining landowner to the subject property, and each purchaser under contract for deed of property immediately adjoining the subject property at least fifteen (15) calendar-days prior to the date of the hearing. The notice shall be prepared and mailed by the Planning Department. The failure of any person required by this section to receive the notice shall not invalidate or otherwise have any effect upon a public hearing or action taken on the application.
- iii. Notice shall be posted in at least one conspicuous place on the site of the proposed subdivision at least fifteen (15) calendar-days prior to the date of the hearing. The notice shall be prepared by the Planning Department and posted by the subdivider. The subdivider shall sign an affidavit stating compliance with this provision. The destruction or removal of the posting required by this section shall not invalidate or otherwise have any effect upon a public hearing or action taken on the application.
- iv. The Planning Department shall prepare and send a summary of the subdivision application, a reduced copy of the preliminary plat and the date, time and location of the public hearing at least fifteen (15) calendar-days prior to the date of the hearing by regular mail to each affected agency, including, but not limited to state and federal agencies, school and fire districts, irrigation districts, and utility companies. Also refer to Sections 3-1-4(c)(ii) and 3-2-3(b).
- v. The Planning Department shall send one copy of the application at least fifteen (15) calendar-days prior to the date of the hearing to the local unit of government for review and comment when the project lies within one (1) mile of a third class city, within two (2) miles of a second class city or within three (3) miles of a first class city.

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- vi. The Planning Department shall send the application at least fifteen (15) calendar-days prior to the date of the hearing to the Ravalli County Planning Board for review and comment.
- vii. The Planning Department shall publish a staff report based on the requirements in Section 3-2-8. The staff report shall be made available to the public, sent to the applicant and the applicant's agent, the Planning Board, and the BCC no later than ten (10) working-days prior to the public hearing.

3-2-5. Subdivider's Preference for Mitigation

No later than two (2) working-days prior to the meeting or hearing at which the BCC is to consider the subdivision application and preliminary plat, the subdivider is encouraged to submit in writing to the Planning Department the subdivider's comments on and responses to the staff report's recommendations and the Planning Board's advice, if available and applicable. The BCC shall consult with the subdivider and will give due weight to the subdivider's expressed preference regarding mitigation for the impacts of the subdivision during their deliberations.

3-2-6. Public Hearing – Procedural Requirements

- a. The public hearing agenda shall be held according to the following format:
 - i. Disclosure of actual, possible, and perceived conflicts of interest
 - ii. Staff report on the proposal
 - iii. Open public comment on the proposal, starting with the subdivider and followed by other members of the public
 - iv. Close public comment part of the hearing
 - v. Receipt of advice from Planning Board

The BCC will receive any written advice submitted by the Planning Board.

 - vi. BCC deliberation on the proposal, starting with variances if there are any
 - A. BCC discussion and questions (to Planning Board, proponents and opponents only as needed)
 - B. BCC action
 - (1) Review of the proposal against the decision and documentation requirements in Section 3-2-8

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- (2) Consultation with the subdivider as to the subdivider's expressed preference regarding mitigation for the impacts of the subdivision and/or variances
 - (3) BCC decision
 - Options:
 - Postpone decision, but not beyond the statutory 60-day review period without consent of the subdivider; or
 - Approve with rationale; or
 - Approve with conditions and rationale; or
 - Deny with rationale
- vii. Close the public hearing
- b. When the BCC postpones making a decision on a subdivision application as provided for in Section 3-2-6(a)(vi)(B)(3) of these regulations, and additional information regarding the subdivision is submitted, the BCC shall determine whether public comment(s) or document(s) presented for consideration at the BCC's public hearing constitute either:
 - i. Information or analysis of information that was presented at the public hearing on the subdivision application that the public has had a reasonable opportunity to examine and on which the public has had a reasonable opportunity to comment, in which case the BCC shall proceed to its decision whether to approve, conditionally approve, or deny the proposed subdivision; or
 - ii. New information or analysis of information that has never been submitted as evidence, in which case the BCC shall proceed as set forth in subsection (c) below.
- c. If the BCC determines that public comments or documents presented at the hearing constitute new information or an analysis of information regarding the subdivision application that has never been submitted as evidence, the BCC shall determine whether the public comments or documents are relevant and credible with regard to the BCC's decision, pursuant to subsections (d) and (e) below.
 - i. If the BCC determines the information or analysis of information is either not relevant or not credible, then the BCC shall approve, conditionally approve, or deny the proposed subdivision without basing its decision on the new information or analysis of information; or
 - ii. If the BCC determines the new information or analysis of information is relevant and credible, then the BCC shall schedule a subsequent public hearing.
 - iii. The BCC shall consider only the new information or analysis of information that may have an impact on the findings and conclusions that the BCC will rely upon in making its decision on the proposed subdivision.

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- d. New information or analysis of information is considered to be relevant if it may have an impact on the findings and conclusions that the BCC will rely upon in making its decision on the proposed subdivision.
- e. New information or analysis of information is considered to be credible if it is based on one or more of the following:
 - i. Physical facts or evidence;
 - ii. Evidence provided by a person with professional competency in the subject matter;
 - iii. Scientific data, supported by documentation; or
 - iv. Personal observations supported by photographs or one of the above items.

3-2-7. Subsequent Public Hearing

- a. If a subsequent public hearing is held pursuant to Section 3-2-6(c)(ii), it must be held within forty-five (45) calendar-days of the BCC's determination to schedule a subsequent hearing. Only the new information or analysis of information shall be considered at the subsequent public hearing.
- b. Notification of the subsequent public hearing regarding the new information shall be subject to Section 3-2-4(b).
- c. If a subsequent public hearing is held, the sixty (60)-working-day review period is suspended as of the date of the BCC's decision to schedule a subsequent hearing. The sixty (60)-working-day review period resumes on the date of the BCC's next scheduled public meeting for which proper notice for the public meeting on the subdivision application, including the new information, can be provided.
- d. The BCC may not consider any information regarding the subdivision application that is presented after the subsequent public hearing when making its decision to approve, conditionally approve, or deny the proposed subdivision.

3-2-8. BCC Decision and Documentation

- a. Prerequisites to Approval

The BCC shall not approve or conditionally approve a subdivision application and preliminary plat unless it is established by credible evidence that the proposed subdivision:

- i. Provides easements for the location and installation of any planned utilities;
- ii. Provides legal and physical access to each parcel within the subdivision and the notation of that access is included on the applicable plat and in any instrument transferring the parcel;

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- iii. Assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Section 3-4-4 of these regulations;
- iv. Assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted;
- v. Assures that the requirements of 76-3-504(1)(k) MCA, regarding watercourse and irrigation easements as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted; and
- vi. Provides for the appropriate park dedication or cash-in-lieu, if applicable.

b. Consideration – Standards

In approving, conditionally approving, or denying a subdivision application and preliminary plat, the BCC shall ensure the subdivision application meets subsection (a) above, and whether the proposed subdivision complies with:

- i. These regulations, including, but not limited to, the standards set forth in Chapter 5;
- ii. Applicable zoning regulations;
- iii. Existing covenants and/or deed restrictions;
- iv. Other applicable regulations; and
- v. The MSPA, including but not limited to an evaluation of the impacts of the subdivision on the following criteria:
 - A. Agriculture, including:
 - (1) Adjacent agricultural operations
 - (2) Prime and important agricultural soils including the loss or disturbance of prime farmland and farmland of statewide importance
 - (3) Proliferation and distribution of noxious weeds
 - (4) Human and/or pet interference with livestock and agricultural practices
 - B. Agricultural water user facilities, including:
 - (1) Water availability to agricultural water users
 - (2) Facilities or facility users and potential conflicts with subdivision residents, including:
 - (a) Seeps, flooding, and washouts
 - (b) Obstructions and interference
 - (c) Unintended uses (recreation and landscaping)

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- (d) Access for maintenance
 - (e) Liability and risk of accidents involving trespassers
 - (3) Water right holders, including clarification of transfer/retention of water rights
 - (4) The placement and/or alteration of irrigation easements and ditches
- C. Local services, including:
 - (1) Current and planned level of service capacity for local services including fire districts, school districts, wastewater treatment districts, water districts, law enforcement, emergency services, public health services, solid waste services and facilities, public domestic water systems, utilities, roadways, bridges, and bicycle/pedestrian facilities
 - (2) Costs of services
 - (3) Facilities and provision of services
 - (4) Adequate easements
 - (5) Rural and special improvement districts, both existing ones and assessment of the need for new ones
- D. Natural environment, including:
 - (1) Air quality
 - (2) Ground water quality (see also subsection (F)(3) below) and quantity including aquifers
 - (3) Surface water features such as streams, rivers, and riparian areas, including additional storm water runoff caused by increased area of impervious surface
 - (4) Wetlands
 - (5) Light pollution
 - (6) Known historical, paleontological, archeological, cultural and scenic sites
 - (7) Vegetation including the composition and distribution of natural vegetation versus invasive weeds
 - (8) Sensitive species of plants, as identified by the Montana Natural Heritage Program.
 - (9) Soils, topography, geology, soil erosion
 - (10) Ecosystems
 - (11) Noise levels, ambient and anticipated
- E. Wildlife and wildlife habitat, including:
 - (1) Critical, significant, and important wildlife habitat, such as wildlife corridors and areas essential for breeding, rearing, nesting and/or winter feeding and foraging
 - (2) Species of special concern, as identified by the Montana Natural Heritage Program
 - (3) Human and/or pet interference with wildlife

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- (4) Fisheries and mammals in general

F. Public health and safety, including:

- (1) Traffic safety
- (2) Emergency vehicle access and response time for police, fire, and ambulance
- (3) Groundwater quality, including assessment of the impacts of a subdivision as it relates to the effects of existing and approved developments on groundwater quality, particularly in regards to wastewater (sewage) treatment systems and water supplies. The requirement for MDEQ or RCEH approval prior as a requirement of final plat approval, shall be considered in the analysis impacts of the subdivision on groundwater quality.
- (4) Risk of exposure to natural and/or man-made hazards such as floodplain, steep slopes, severe soils, shooting ranges, active seismic areas, hazardous and/or toxic waste sites, high pressure gas lines, wildland fire hazard, high voltage power lines, airports, railroads, dam inundation areas, nearby mining/industrial activities, irrigation canals, wastewater treatment (sewage) systems and disposal, groundwater contamination
- (5) Other possible public health and safety issues that result from creation of the subdivision

c. Consideration – Evidence

In making its decision to approve, conditionally approve, or deny a proposed subdivision, the BCC may consider and weigh the following, as applicable:

- i. The subdivision application and preliminary plat;
- ii. The environmental assessment;
- iii. The summary of probable impacts;
- iv. Subdivider's expressed preference for mitigation;
- v. An officially adopted growth policy, which shall be considered as one factor and shall not be the sole basis for any decision;
- vi. Comments, credible evidence and discussions at the public hearing(s);
- vii. Planning Department's staff report and recommendation;
- viii. Planning Board's comments; and
- ix. Any additional information authorized by law.

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d. Water and Sanitation - Special Rules

- i. Water and sanitation information provided during the application review process, including public comment, may be used as a basis for a conditional approval or denial of a subdivision only if the BCC finds that the water and sanitation information in application does not comply with previously adopted subdivision, zoning, floodplain, environmental health or other regulations related to water and sanitation.
- ii. For a proposed subdivision that will create one or more parcels containing less than twenty (20) acres, the subdivider shall obtain approval by DEQ prior to final plat approval. This approval applies to the development of lots at the time of the approval and is no guarantee that a source of water or a location for a wastewater treatment system will be available when the lots are actually developed.
- iii. For a proposed subdivision that will create one or more parcels containing twenty (20) acres or more, prior to final plat approval the subdivider shall demonstrate that there is an adequate water source and at least one area for a septic system and a replacement drain field for each lot. This demonstration to the local reviewing authority is to evaluate the ability to develop lots at the platting stage and is no guarantee that a source of water or a location for a wastewater treatment system will be available when the lots are actually developed.
- iv. The BCC shall collect public comments submitted regarding water and sanitation information at its hearing or meeting and shall make any comments submitted or a summary of the comments submitted available to the subdivider within thirty (30) calendar days after conditional approval or approval of the subdivision application and preliminary plat.
- v. The subdivider shall, as part of the subdivider's application for sanitation approval, forward the comments or the summary provided by the BCC to the:
 - A. Reviewing authority provided in Montana Code Annotated, Title 76, chapter 4, for subdivisions that will create one or more parcels containing less than twenty (20) acres; and
 - B. RCEH for proposed subdivisions that will create one or more parcels containing twenty (20) acres or more and less than one hundred sixty (160) acres.

e. Documentation of BCC Decision

- i. In rendering its decision to approve, conditionally approve, or deny the proposed subdivision, the BCC shall issue written findings of fact that discuss and weigh the proposed subdivision's compliance with the preceding subsections.
- ii. When the BCC approves, denies, or conditionally approves the proposed subdivision, it shall send the subdivider a signed preliminary plat decision, with the appropriate signature. The preliminary plat decision shall:

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- A. Contain information regarding the appeal process for the denial or imposition of conditions;
 - B. Identify the regulations and statutes that are used in reaching the decision to approve, deny, or impose conditions and explain how they apply to the decision;
 - C. Provide the facts and conclusions that the BCC relied upon in making its decision and reference documents, testimony, or other materials that form the basis of the decision;
 - D. Provide the conditions that apply to the preliminary plat approval and that must be satisfied before the final plat may be approved; and
 - E. Set forth the time limit for approval, pursuant to subsection (f) below.
- f. Subdivision Application and Preliminary Plat Approval Period
- i. Upon approval or conditional approval of the preliminary plat, the BCC shall provide the subdivider with a dated and signed statement of approval. The approval shall be in force for eighteen (18) months, unless a preliminary phasing plan and schedule has been approved as part of the preliminary plat approval.
 - ii. The BCC may, at its discretion and at the written request of the subdivider, extend its approval for a period of one additional year. To be given consideration for an extension of the preliminary plat approval period, the subdivider must submit a letter explaining the reasons for requesting an extension. The request for an extension of the preliminary plat approval period must be submitted at least thirty (30) calendar-days prior to the expiration of the preliminary plat approval. The BCC shall evaluate the request for extension against the following points and act upon it at a public meeting before the approval expires:
 - A. Circumstances governing the timing of final plat review have changed beyond the control of the subdivider. All such circumstances shall be listed and a statement must be made as to how the new deadline can be met;
 - B. The subdivider certifies the findings of fact regarding the primary review criteria will still be valid if the extension is granted;
 - C. The subdivider certifies that no significant changes in the area of the subdivision have occurred or are expected to occur within the extension period prior to final plat review that would change the evaluation of the proposal; and
 - D. Planning and provision for public facilities and services in the area of the subdivision will not be disrupted by the extension of the deadline.
 - iii. Except per Section 3-2-8(f)(iv), after the application and preliminary plat are approved, the BCC may not impose any additional conditions as a prerequisite to final plat approval

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unless the preliminary plat approval expires, at which time a new application shall be required.

iv. Phasing

The subdivider, as part of the preliminary plat application, may propose to delineate on the preliminary plat two or more final plat filing phases and establish the schedule of the phased final plat review. Final plats of major subdivisions approved for phased development shall be filed sequentially in accordance with the preliminary plat approval. By submitting a phasing proposal, the subdivider consents to allow the BCC to impose additional conditions to address any critical public health and safety issues that exist at the time that each phase is brought before the BCC for final plat review of the final plat of each phase at a public meeting before the preliminary plat approval for each phase expires.

- A. Each phase must be fully capable of functioning with all the required improvements in place in the event the future phases are not completed or completed at a much later time.
 - B. A phasing plan must be submitted and must include the following:
 - (1) A plat delineating each phase and a general time frame for each phase.
 - (2) A required improvements phasing plan showing which improvements will be completed with each phase.
 - C. If a major subdivision application contains a specific phasing plan complete with time lines, such phasing plan shall be binding, unless specific changes are requested in writing and approved by the BCC, pursuant to the procedures in Section 3-4-1.
- v. The BCC may withdraw approval or conditional approval of an application and preliminary plat if it determines that information provided by the subdivider, and upon which the approval or conditional approval was based, is inaccurate.

3-2-9. Amended Applications

- a. If the subdivider changes the subdivision application or preliminary plat after the Planning Department makes a determination of sufficiency pursuant to Section 3-1-6, but before the public hearing, the subdivider shall submit the amended application to the Planning Department for review.
 - i. Within five (5) working-days of receiving the amended application or preliminary plat, the Planning Department shall determine whether the changes to the subdivision application or preliminary plat are material, as determined in subsection (d) below.

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- ii. The sixty (60)-working-day review period is suspended while the Planning Department considers whether the changes to the subdivision application or preliminary plat are material.
 - iii. If the Planning Department determines the changes are not material, the sixty (60)-working-day review period resumes when the Planning Department mails notice of the decision to the subdivider.
 - iv. If the Planning Department determines the changes are material, the Planning Department shall require the subdivider to resubmit the application as a new subdivision application for element review and proceed with the sixty (60)-working-day review period upon certification from the Planning Department that the resubmitted application is sufficient for review. Additional fees for the application submittal shall apply.
- b. If the subdivider changes the subdivision application or preliminary plat after the BCC hearing but before the decision on the subdivision application and preliminary plat, the subdivider shall submit the amended application or preliminary plat to the Planning Department for review.
- i. Within five (5) working-days of receiving the amended application or preliminary plat, the Planning Department shall determine whether the changes to the subdivision application or preliminary plat are material pursuant to subsection (d) below.
 - ii. The sixty (60)-working-day review period is suspended while the Planning Department considers whether the changes to the subdivision application or preliminary plat are material.
 - iii. If the Planning Department determines the changes are not material, the sixty (60)-working-day review period resumes when the Planning Department mails notice of the decision to the subdivider.
 - iv. If the Planning Department determines the changes are material, the Planning Department shall either:
 - A. Require the subdivider to begin the subdivision review process again, starting with the element review, and require payment of a new fee; or
 - B. Schedule a new public hearing to take comment on the amended application or preliminary plat. Notice of the Planning Department's determination to schedule a new public hearing shall be provided as set forth in Section 3-2-4. A supplemental staff report shall be prepared to address the changes to the original application.
 - v. If a new public hearing is held pursuant to subsection (b)(iv)(B) above, the 60-working-day review period is suspended for the time period between notice of the Planning Department's determination and ten (10) working-days after the date of the second BCC hearing.

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- c. By making changes to a pending subdivision application or preliminary plat, the subdivider consents to suspension of the review period as provided in subsections (a)(ii) and (b)(ii).
- d. The following changes, although not an exhaustive list, may be considered material:
 - i. Configuration or number of lots;
 - ii. Road layout;
 - iii. Water and/or wastewater treatment system proposals;
 - iv. Configuration of park land or open spaces;
 - v. Easement provisions; or
 - vi. Designated access.
- e. A subdivider whose subdivision application or preliminary plat has been deemed materially changed by the Planning Department may appeal the Planning Department's decision to the BCC by written notice within ten (10) working-days of the date of the Planning Department's decision. The subdivider may request a hearing, and may submit additional evidence to show that the changes to the preliminary plat are not material.
 - i. The sixty (60)-working-day review period is suspended until the BCC decision on the appeal is made. A decision on the appeal is required within thirty (30) working-days of receipt of the written notice.
 - ii. If the BCC concludes that the evidence and information demonstrate that the changes to the subdivision application or preliminary plat are material, the BCC shall determine whether the subdivision application should be resubmitted or scheduled for rehearing in front of the BCC pursuant to subsections (b)(iv)(A) or (B).
 - iii. If the BCC concludes that the evidence and information demonstrate that the changes to the subdivision application or preliminary plat are *not* material, the sixty (60)-working-day review period resumes as of the date of the decision.
 - iv. By appealing the decision of the Planning Department, the subdivider agrees to suspension of the sixty (60)-working-day review period provided in subsection (i) above.

3-3. FIRST MINOR SUBDIVISIONS - REVIEW PROCEDURES

Subdivisions containing five or fewer parcels shall be reviewed as set forth in this section.

Subsequent minor subdivisions shall be reviewed pursuant to Section 3-2 and first minor subdivisions shall be reviewed pursuant to Section 3-3. (See Chapter 2 for definitions of subdivision, first minor subdivision, and subdivision, second minor subdivision.)

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3-3-1. Subdivision Application and Preliminary Plat Submittal

- a. The subdivider shall submit to the Planning Department the subdivision application containing the materials identified in Section 3-1-5 and in the pre-application meeting, and
- b. Sufficient documentary evidence from the public records demonstrating that the subdivision will be the first minor subdivision from a tract of record.

3-3-2. Exceptions

The following do not apply to first minor subdivisions:

- a. Preparation of an environmental assessment;
- b. Parkland dedication;
- c. Public hearing requirements; and
- d. Review of the subdivision application for the impact on the primary subdivision review criteria, *if* the subdivision is proposed in a jurisdictional area that has adopted zoning regulations that address impacts on the primary review criteria specified in 76-3-608(3)(a), MCA.

3-3-3. Time Period for Approval, Conditional Approval, or Denial

- a. The thirty-five (35)-working-day period for a subdivision application begins when the Planning Department notifies the subdivider or the subdivider's agent in writing that the application contains sufficient information to conduct the review. Within thirty-five (35) working-days, the BCC shall approve, conditionally approve, or deny the proposed subdivision in accordance with Section 3-3-7 of these regulations, unless the subdivider and the Planning Department agree to an extension or suspension of the review period, not to exceed one year.

- b. Public Agency and Utility Review

Review and comment by public agencies or utilities may not delay the BCC's action on the subdivision application beyond the thirty-five (35)-working-day review period. If, during the review of the application, the Planning Department or the Planning Board contacts a public utility, agency, or other entity that was not included on the list provided during the pre-application meeting, the Planning Department shall notify the subdivider of the contact and the timeframe for response. Also refer to Sections 3-1-4(c)(ii) and 3-3-4(b)(iv).

3-3-4. Public Meeting – Notice

- a. Meeting

After the subdivision application has been deemed to have all the required elements and to contain sufficient information for review, the BCC shall hold a public meeting on the subdivision application.

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b. Notice

- i. Notice of the public meeting shall be noticed on the published agenda of the BCC a minimum of forty-eight (48) hours prior to the meeting.
- ii. Notice of the public meeting shall be sent by regular mail to the subdivider, each adjoining landowner to the subject property, and each purchaser under contract for deed of property immediately adjoining the subject property at least fifteen (15) calendar-days prior to the date of the meeting. The notice shall be prepared and mailed by the Planning Department. The failure of any person required by this section to receive the notice shall not invalidate or otherwise have any effect upon a public meeting or action taken on the application.
- iii. Notice shall be posted in at least one conspicuous place on the site of the proposed subdivision at least fifteen (15) calendar-days prior to the date of the meeting. The notice shall be prepared by the Planning Department and posted by the subdivider. The subdivider shall sign an affidavit stating compliance with this provision. The destruction or removal of the posting required by this section shall not invalidate or otherwise have any effect upon a public hearing or action taken on the application.
- iv. The Planning Department shall prepare and send a summary of the subdivision application, a reduced copy of the preliminary plat and the date, time and location of the public meeting by regular mail at least fifteen (15) calendar-days prior to the date of the meeting to each affected agency, including, but not limited to state and federal agencies, school and fire districts, irrigation districts, and utility companies. Also refer to Sections 3-1-4(c)(ii) and 3-3-3(b).
- v. The Planning Department shall send one copy of the application to the local unit of government at least fifteen (15) calendar-days prior to the date of the meeting for review and comment when the project lies within one (1) mile of a third class city, within two (2) miles of a second class city or within three (3) miles of a first class city.
- vi. The Planning Department shall send one copy of the application to the Ravalli County Planning Board at least fifteen (15) calendar-days prior to the date of the meeting for review and comment. Planning Board may delegate its role to planning staff to provide advice to the BCC on minor subdivisions.
- vii. The Planning Department shall publish a staff report based on the requirements in Section 3-3-7. The staff report shall be made available to the public and Planning Board and sent to the applicant, the applicant's agent, and the BCC no later than five (5) working-days prior to the public meeting.

3-3-5. Subdivider's Preference for Mitigation

Refer to Section 3-2-5 for requirements and procedures.

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3-3-6. Public Meeting – Procedure

a. The public meeting agenda shall be held according to the following format:

- i. Disclosure of actual, possible, and perceived conflicts of interest
- ii. Staff report on the proposal
- iii. Open public comment on the proposal, starting with the subdivider and followed by other members of the public
- iv. Close public comment part of the meeting
- v. Receipt of advice from Planning Board

The BCC will receive any written advice submitted by the Planning Board and invite the Planning Board to discuss its analysis of the subdivision proposal, including any variances, and information received in the meeting.

- vi. BCC deliberation on the proposal, starting with variances if there are any
 - A. BCC discussion and questions (to Planning Board, proponents and opponents only as needed)
 - B. BCC action
 - (1) Review of the proposal against the decision and documentation requirements in Section 3-3-7
 - (2) Consultation with the subdivider as to the subdivider's expressed preference regarding mitigation for the impacts of the subdivision and/or variances
 - (3) BCC decision
 - Options:
Postpone decision; or
Approve with rationale; or
Approve with conditions and rationale; or
Deny with rationale

vii. Close the public meeting

3-3-7. BCC Decision and Documentation

Refer to Section 3-2-8 for requirements and procedures.

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3-3-8. Amended Applications

Refer to Section 3-2-9 for requirements and procedures, with the exception that the review period for first minor subdivisions shall be thirty-five (35) working-days.

3-4. ALL SUBDIVISIONS - FINAL PLAT APPLICATION AND REVIEW PROCEDURES

3-4-1. Amending Approved Preliminary Plats Before Final Plat Approval

- a. If the subdivider proposes to change the preliminary plat after the preliminary plat approval but before the final plat approval, the subdivider shall submit the proposed changes to the Planning Department for review.
 - i. Within five (5) working-days of receiving the proposed changes, the Planning Department shall determine whether the changes to the preliminary plat are material pursuant to subsection (b) below.
 - ii. If the Planning Department determines the changes are material, the Planning Department may require the subdivider to begin the subdivision review process again, starting with the pre-application meeting, and require payment of a new application fee.
 - iii. If the Planning Department determines the changes are not material, the Planning Department shall accept the changes and notify the subdivider and the BCC of its decision and the BCC shall approve of these changes in a public meeting for which notice have been given of non material changes to the final plat.
- b. The following changes, although not an exhaustive list, may be considered material:
 - i. Configuration or number of lots;
 - ii. Road layout;
 - iii. Water and/or wastewater treatment system proposals;
 - iv. Configuration of park land or open spaces;
 - v. Easement provisions;
 - vi. Covenants;
 - vii. Designated access; or
 - viii. Change to conditions of approval.
- c. A subdivider whose proposed changes to the preliminary plat have been deemed material by the Planning Department may appeal the Planning Department's decision to the BCC by written notice received within ten (10) working-days. The subdivider may request a hearing, and may submit additional evidence to show that the changes to the preliminary plat are not material.

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- d. If the subdivider and Planning Department determine that a condition of approval is illegal or impossible to comply with due to circumstances outside the subdivider's control, economic hardship notwithstanding, the condition may be reviewed by the BCC through a properly noticed public hearing in order to determine if the condition may be waived or amended.

3-4-2. Required Improvements Agreement; Guaranty

- a. As a condition of approval of the final plat for a subdivision or for a subdivision phase, the subdivider must have installed all required improvements or have entered into a subdivision improvements agreement guaranteeing the construction, installation, and maintenance of all required improvements [76-3-507, MCA]. No placement or construction of structures on the lots may occur until improvements related to public health and safety, such as roads or fire fighting facilities, have been installed and final engineering plans and road certifications submitted. A model subdivision improvements agreement and alternative methods of guaranteeing improvements, the procedures and requirements for securing an agreement, and suggested conditions for maintenance are provided in the Administrative Materials available at the Planning Department.
- b. If the subdivider chooses to enter into a subdivision improvements agreement, guaranteeing and securing the improvements through a bond, letter of credit, or other acceptable form of security, the following procedure shall apply:
 - i. With the final plat submittal the subdivider shall provide a proposed subdivision improvements agreement that includes a complete list of remaining improvements and associated costs. To determine the cost of improvements, the subdivider shall submit three bids for the cost of installation of the improvements and calculate the amount of the guarantee by multiplying the highest bid by a minimum of 125%. Alternatively, in place of the three bids, the Commissioners may accept an Engineer's Estimate of the improvements. A higher percentage calculation may be required by the BCC depending on market conditions.
 - ii. During the BCC decision on the final plat per Section 3-4-4(c), the subdivider shall enter into an agreement with the BCC that includes the necessary improvements, costs, amount of the guaranty, and agreed upon security.
 - iii. When improvements are completed as required by the subdivision improvements agreement the subdivider shall provide a letter to the BCC indicating the required improvements have been installed, including a copy of the engineered plans, if applicable. The subdivider's consulting engineer, the subdivider's agent, or the subdivider, as applicable, shall certify that all improvements have been installed in conformance with the plans and specifications.
 - iv. The County engineer, consulting engineer designated by the BCC, or planning staff, as applicable, shall verify that improvements have been installed in conformance with the plans and specifications.

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- v. To release the guaranty, the subdivider shall submit a written request to the Planning Department from the individual or institution that provided the security. The request shall be considered by the BCC in a public meeting. Prior to the release of the guaranty, a copy of the plans and/or certifications, stamped by the project surveyor or engineer in accordance with their licensing provisions, shall be filed and recorded in the Clerk and Recorder's Office, when applicable, with reference to the final subdivision plat.

3-4-3. Final Plat Contents

The final plat submitted for approval shall conform to the preliminary plat as previously reviewed and approved by the BCC and must incorporate all required modifications and comply with all conditions imposed at the time of subdivision application and preliminary plat approval. The final plat and accompanying documents shall comply with the Montana Uniform Standards for Final Subdivision Plats. Final plats of subdivisions approved for phased development shall be filed sequentially in accordance with the approval, or in accordance with a revised phasing plan approved by the BCC, and in compliance with Section 3-2-8(f)(iv).

3-4-4. Final Plat Review

a. Final Plat Submittal

The final plat approval application form and all supplementary documents must be submitted to the Planning Department at least thirty (30) working days prior to the expiration of preliminary plat approval. All documents shall be the original copies. The submittal shall include, as applicable:

- i. A statement from the project surveyor or engineer outlining how each final plat requirement or condition of approval has been satisfied;
- ii. One paper and two mylar 18" x 24" or larger copies of the final plat, completed in accordance with the Uniform Standards for Final Subdivisions Plats (ARM 8.94.3003). (One paper copy may be submitted for the first proofing.) The final plat shall conform to the preliminary plat decision. The following features are required on the Final Plat:
 - A. Project name
 - B. Title block
 - C. Certificate of registered owner – notarized
 - D. Certificate of registered land surveyor with seal
 - E. Certificate of governing body approval
 - F. Signature block for Clerk and Recorder, preferably in lower right hand corner
 - G. Certificate of public dedication
 - H. Certificate of park cash-in-lieu payment
 - I. Other certifications as appropriate
 - J. North arrow
 - K. Graphic scale
 - L. Legal description
 - M. Property boundaries (bearings, lengths, curve data)
 - N. Pertinent section corners and subdivision corners
 - O. Names of adjoining subdivisions/certificates of survey
 - P. Monuments found
 - Q. Witness monuments

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- R. Acreage of subject parcel
- S. Curve data (radius, arc length, notation of non-tangent curves)
- T. Line data (lengths to tenths of a foot, angles/bearings to nearest minute)
- U. Lots and blocks designated by number (dimensions/acreage)
- V. Easements/rights of ways (location, width, purpose, ownership)
- W. Dedication for public use (boundaries, area, purpose)
- X. No-build/alteration zones
- Y. No-ingress/egress zones
- Z. Water resources (rivers, ponds, etc.)
- AA. Floodplains
- BB. Irrigation canals including diversion point(s), etc.
- CC. High-pressure gas lines
- DD. Existing and new roads (names, ownership, etc.)
- iii. The preliminary plat decision;
- iv. Any variance decisions;
- v. Copies of extensions of the preliminary plat approval period;
- vi. The final plat review fee;
- vii. Consent to Plat form, including notarized signatures of all owners of interest, if the developer is not the underlying title holder;
- viii. A Title Report or updated Abstract dated no less than one (1) year prior to the date of submittal;
- ix. The DEQ Certificate of Subdivision Approval or RCEH approval;
- x. Copy of the General Discharge Permit for Stormwater Associated with Construction Activity from the DEQ;
- xi. The approved Ground Disturbance and Noxious Weed Management Plan for the control of noxious weeds and the re-vegetation of all soils disturbed within the subdivision;
- xii. A copy of the appraisal report, per Section 6-1-7, dated no less than six (6) months from the date of the submittal, for calculating the cash-in-lieu of parkland dedication and a receipt from the County Treasurer's Office for the payment of cash-in-lieu of parkland dedication;
- xiii. Road and driveway approach and encroachment permits;
- xiv. Evidence of a Ravalli County-approved road name petition(s) for each new road;
- xv. Engineering plans and specifications for all central water and sewer systems and any other infrastructure improvements requiring engineered plans;
- xvi. Final Road Plans and Grading and Storm Water Drainage Plan;
- xvii. Road certification(s);
- xviii. Utility availability certification(s);
- xix. Road/common access maintenance agreement(s), signed and notarized;
- xx. Signed and notarized master irrigation plan, or if one is not required, written and notarized documentation showing how the water rights are to be divided or written and notarized documentation indicating that the water rights will be removed from the property;
- xxi. A notarized statement from each downstream water user specifically authorizing any alteration, such as installation of culverts, bridges, etc., or relocation of an irrigation ditch;
- xxii. Protective covenants to be filed with the final plat that are signed and notarized;
- xxiii. Copies of permits issued by the Bitterroot Conservation District or the US Army Corps of Engineers when construction occurs on environmentally sensitive features;

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- xxiv. A copy of the letter sent to the appropriate school district(s) stating the applicant has made or is not willing to make a voluntary contribution to the school district to mitigate impacts of the subdivision on the school district that are not related to capital facilities;
- xxv. Signed and notarized homeowner association documents, including bylaws, covenants, and/or declarations;
- xxvi. Evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider, Professional Engineer, or contractor, as may be appropriate and required. A Professional Engineer's certification shall be required in any instance where engineered plans are required for the improvement. Alternatively, an improvements agreement and guaranty shall be required. (Refer to Section 3-4-2.)

b. Review by Planning Department

- i. The Planning Department shall review the final plat to ascertain that all conditions and requirements for final plat approval have been met. The Planning Department will not accept, begin processing, nor schedule any actions on a final plat submittal until a complete application, fee, and copies of the final plat have been received. Final plat applications will not be considered complete by the Planning Department until all conditions of preliminary approval have been satisfied.
- ii. If the Planning Department determines that the final plat differs from the approved or conditionally approved preliminary plat, the applicant shall be required to submit an amended application pursuant to Section 3-4-1.
- iii. The Planning Department may require that final subdivision plats be reviewed for errors and omissions in calculation or drafting by an examining land surveyor before recording with the Clerk and Recorder. When the survey data shown on the plat meets the conditions pursuant to these regulations, the examining surveyor shall certify the compliance in a printed or stamped signed certificate on the plat.

c. Final Plat Approval by the BCC

The BCC shall examine every final subdivision plat and shall approve it only if it conforms to the conditions of preliminary plat approval and to the terms of the MSPA and these regulations, or deny it pursuant to (ii) below.

- i. If the final plat is approved, the BCC shall certify its approval on the face of the final plat. When applicable, a certificate of the BCC expressly accepting any dedicated land, easements, or improvements will be filed with the final plat.
- ii. If the final plat is denied, the BCC shall write a letter stating the reason for denial and forward a copy to the subdivider. The BCC will return the final plat to the subdivider within ten (10) working-days of the action. The subdivider may then make any necessary corrections and resubmit the final plat for approval.

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- d. The BCC may withdraw approval of a final plat if it determines that material information submitted by the subdivider is inaccurate.

3-4-5. Final Plat Filing

- a. After it is approved, the final plat may not be altered in any manner except as provided in Section 3-4-6. The County Clerk and Recorder may not accept any plat for filing that does not bear the BCC's approval in proper form or that has been altered. The Clerk and Recorder may file an approved plat only if it is accompanied by the documents specified in the Montana Uniform Standards for Monumentation, and Final Subdivision Plats, contained in the ARMs. Prior to filing the final plat, the owner of record shall pay all property taxes that have been assessed and levied on the land. Filing fees will be assessed by the County Clerk and Recorder's Office prior to filing the final plat and associated documents.
- b. The following final plat application elements are required to be filed:
 - i. One paper and two mylar copies of the final plat that are 18" x 24" or larger, completed in accordance with the Uniform Standards for Final Subdivisions Plats set forth in Appendix A;
 - ii. The preliminary plat decision;
 - iii. Any variance decisions;
 - iv. Consent to Plat form, including notarized signatures of all owners of interest, if the developer is not the underlying title holder;
 - v. The DEQ Certificate of Subdivision Approval or RCEH approval;
 - vi. The approved Noxious Weed Control Plan for the re-vegetation of soils disturbed during road construction;
 - vii. Road certification(s);
 - viii. Utility availability certification(s);
 - ix. Road/common access maintenance agreement(s), signed and notarized;
 - x. Signed and notarized master irrigation plan, or if one is not required, written and notarized documentation showing how the water rights are to be divided or written and notarized documentation indicating that the water rights will be removed from the property;
 - xi. A signed statement from each downstream water user specifically authorizing any alteration, such as installation of culverts, bridges, etc., or relocation of an irrigation ditch;
 - xii. Protective covenants to be filed with the final plat that are signed and notarized;
 - xiii. Signed and notarized homeowner association documents, including bylaws, covenants, and/or declarations;
 - xiv. Required improvements agreement and guaranty. (Refer to Section 3-4-2.)

3-4-6. Amending Filed Plats

- a. Errors and Corrections
 - i. From time to time, errors may be discovered on the face of a recorded plat. It is the intent of Ravalli County to establish reasonable standards and procedures to correct such errors

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in order to protect the interests of affected property owners. Errors may include but are not limited to:

- A. Typographical and spelling errors or transpositions;
 - B. Incorrect seals;
 - C. Incorrect dates;
 - D. Monumentation incorrectly noted, drawn, or missing;
 - E. Incorrect or missing interior bearing(s) and/or dimensions(s) on the drawing;
 - F. Missing or incorrectly displayed arrows or symbols;
 - G. Street name changes;
 - H. Title of plat already in use;
 - I. Additions to or deletions from the legal description of dedicatory language that are not typographical in nature;
 - J. Incorrect certificates or signatures;
 - K. Missing certificates, seals, or signature blocks; and
 - L. Other items of a similar nature as determined by the Planning Department.
- ii. Errors shall be reviewed by the Planning Department. Appeal of the Planning Department's decision is to the BCC. An Affidavit of Correction is to be prepared and signed by a Professional Land Surveyor on forms approved by the County Attorney and is to be recorded with the Clerk and Recorder.
 - iii. The property owners petitioning for the amendment or correction of a filed subdivision plat shall pay all related direct costs incurred by Ravalli County, including filing fees.
- b. **Material Modifications**
- A material modification is any modification to a filed plat that is not considered an error and does not constitute a subdivision.
- i. An application for a material modification shall include all documentation necessary to describe the modification and the reasons for the request. The BCC shall consider a request for a material modification in a properly noticed public hearing. The BCC may not approve a modification that will place a lot in non-conformance with the standards contained in Chapter 5 of these regulations. A material modification cannot also place a lot in nonconformance with local zoning regulations unless the required procedures for a zoning variance are completed and the variance approved. The governing body shall not approve a material modification without the written consent of the owners and lienholders of all lots which will be modified by the proposed amendment.
 - ii. The property owners petitioning for material modification of a filed subdivision plat shall pay all related direct costs incurred by Ravalli County, including filing fees. A consent to plat form signed by all parties with an interest in the property shall be filed with any material modification.
 - iii. The final amended plat submitted for approval must comply with the requirements for final subdivision plats under the Uniform Standards for Filing Final Plats.

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3-5. SUBDIVISIONS CREATED BY RENT OR LEASE

3-5-1. Subdivision Application and Preliminary Plan Submittal and Review

Subdivisions that will provide multiple spaces for recreational camping vehicles or mobile homes and other subdivisions for lease or rent are exempt from the surveying and filing requirements of the MSPA. However, these subdivisions must be submitted for review and approved by the BCC before portions of the subdivision may be rented or leased or alteration of the land to enable rental or lease of portions thereof.

a. Submittal

The subdivider shall submit a completed application in accordance with Section 3-1-5 and a plan of the proposed development, conforming to the requirements for preliminary plats and the applicable design standards in Chapter 5.

b. Review

The procedure used to review subdivisions for rent or lease will depend on the number of spaces/units within the proposed subdivision. Proposed subdivisions containing six or more spaces/units must be reviewed pursuant to Sections 3-1 and 3-2 of these regulations. Proposed subdivisions containing five or fewer spaces must be reviewed pursuant to Section 3-1 and 3-3 of these regulations.

3-5-2. Exception

- a. When an accessory building(s), such as a barn or shop, will have sanitary facilities that would not alter the parcel to enable rental or lease of a portion thereof, the proposal would not be considered under this section as a subdivision created by rent or lease, but is subject to administrative review and approval by the Planning Department. (Refer to the Administrative Materials at the Planning Department for the Wastewater Exception Application.)

b. Review criteria

The following review criteria, although not an exhaustive list, may be considered by the Planning Department in their review of these proposals:

- i. Proximity of existing services and facilities
- ii. Extent and nature of proposed plumbing
- iii. Proposed floor plan
- iv. Previous use of exemptions
- v. Potential for use as a rental
- vi. Proposed use(s) of accessory building(s)

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3-5-3. Improvements

The subdivider shall install all required improvements before renting or leasing, or otherwise occupying, any portion of the subdivision. All required improvements shall be inspected in order to ensure conformance with the approved construction plans and specifications.

3-5-4. Final Plan Review

In lieu of filing a final plat, the subdivider shall submit a final plan to the Planning Department complying with the requirements of Final Plats in Section 3-4. The final plan will be reviewed to ensure that it conforms to the approved preliminary plan. The approved final plan shall be maintained in the Planning Department.

3-5-5. Department of Public Health and Human Services License

If a subdivision that will provide multiple spaces for recreational camping vehicles or mobile homes is also a "trailer court," "work camp," "youth camp," or "campground" as those terms are defined in section 50-52-101, MCA, the BCC will not grant final plan approval of the subdivision until the subdivider obtains a license for the facility from the Montana Department of Public Health and Human Services under Title 50, Chapter 52, MCA and approval under Title 76, Chapter 4, MCA from DEQ.

3-6. REVOCATION OF AGRICULTURAL COVENANTS

If a property owner wants to remove an agricultural covenant on a parcel that was created through a subdivision exemption as allowed by 76-3-207 MCA, or a prior similar statute, the owner shall comply with Chapters 1, 2, 3, 5 and 8 as they pertain to first minor subdivisions prior to filing a written agricultural covenant revocation with a Certificate of Survey, upon which the revocation is recited.

3-7. CONDOMINIUMS

3-7-1. Procedures

Unless exempted by section 76-3-203, MCA, all condominium developments are subdivisions subject to the terms of the MSPA as follows:

- a. If no division of land will be created by a condominium subdivision, the subdivision must be reviewed under the procedures contained in Section 3-5, Subdivisions Created by Rent or Lease, with the following exception: final approval will not be given until the subdivider has either installed all required improvements, or has entered into a subdivision improvements agreement pursuant to Section 3-4-2. Required Improvements Agreement; Guaranty.
- b. If a proposed condominium development will involve a division of land, the subdivision must be reviewed under the procedures contained in Sections 3-1, 3-2, and 3-4 and obtain DEQ approval.

3-7-2. Standards

Condominium developments must comply with applicable standards contained in Chapter 5.

Chapter 3

Subdivision Review Requirements and Procedures

3-7-3. Unit Ownership Act

Condominium developments must comply with all provisions of the Unit Ownership Act in Title 70, Chapter 23, MCA.